

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 44867/20
Constantin STĂRPU against Romania
and 8 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 3 October 2024 as a Committee composed of:

Anne Louise Bormann*, President*,
Sebastian Răduleţu,
Mateja Đurović*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Romanian Government ("the Government").

THE LAW

A. Joinder of the applications

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Complaints under Article 3 of the Convention (inadequate conditions of detention)

The Government argued that the applicants had failed to exhaust the available effective remedies for the complaints about the inadequate conditions of their detention, as the action in tort had become an effective remedy for grievances similar to those of the applicants, allowing them to have the violation of the Convention acknowledged, either explicitly or in substance, and to receive adequate and sufficient compensation at domestic level. By a subsequent letter, the Government expressly referred to *Vlad v. Romania* (dec.), no. 122/17, 15 November 2022, and invited the Court to declare the cases inadmissible.

The Court recalls that in *Polgar v. Romania*, no. 39412/19, §§ 94-96, 20 July 2021, it held that an action in tort, based on Articles 1349 and 1357 of the Romanian Civil Code, as interpreted consistently by the national courts, had represented since 13 January 2021 an effective remedy for individuals who considered that they had been subjected to inadequate conditions of detention and who were no longer held in conditions that were allegedly contrary to the Convention. Subsequently, in *Vlad*, cited above, §§ 24-32, the Court considered it appropriate to apply an exception to the general principle that the effectiveness of a given remedy was to be assessed with reference to the date on which the application was lodged.

Although invited, the applicants did not inform the Court of having brought an action in tort before the Romanian courts. Therefore, for all the above reasons and in the light of all the material in its possession, since the applicants ceased to be held in conditions of detention that were allegedly contrary to the Convention after the moment when the tort action had been considered as representing an effective remedy (see, *mutatis mutandis*, *Polgar*, § 96, and *Vlad*, § 23, both cited above; see the appended table for further details), the Court considers that their applications as regards their detention during the periods described in the appended table below must be rejected for failure to exhaust domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 24 October 2024.

Viktoriya Maradudina Acting Deputy Registrar	Anne Louise Bormann President

APPENDIX

List of applications raising complaints under Article 3 of the Convention (inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration
1.	44867/20 19/02/2021	**Constantin STĂRPU** 1981	Iași and Gherla Prisons 02/05/2019 to 07/12/2022 3 year(s) and 7 month(s) and 6 day(s)
2.	50259/20 17/03/2021	**Ragnar CERGHIZAN** 1989	Bucharest-Rahova, Aiud, Târgu Mureș and Bistrița Prisons 29/11/2019 to 16/01/2024 4 year(s) and 1 month(s) and 19 day(s)
3.	9080/21 03/03/2021	**Robert-Daniel CAPBUN** 1994	Constanța-Poarta Albă, Slobozia, Bucharest-Rahova Prisons 15/03/2019 to 27/06/2022 3 year(s) and 3 month(s) and 13 day(s)
4.	17800/21 08/10/2021	**Sorin SZENTGYÖRGYI** 1988	Gherla and Bistrița Prisons 12/02/2019 to 30/10/2023 4 year(s) and 8 month(s) and 19 day(s)
5.	30088/21 07/09/2021	**Corvin-Coriolan CIACLAN** 1974	Rahova and Jilava Prisons 12/09/2019 to 13/09/2021 2 year(s) and 2 day(s)
6.	42490/21 15/09/2021	**Victor-Marian GĂBUNEA** 1987	Olt County Police Station; Craiova and Drobeta-Turnu Severin Prisons 12/07/2020 to 24/05/2024 3 year(s) and 10 month(s) and 13 day(s)
7.	43695/21 26/10/2021	**Valentin CONSTANTIN** 1976	Giurgiu Prison 16/05/1998 to 22/07/2012 14 year(s) and 2 month(s) and 7 day(s) Giurgiu Prison 23/12/2019 to 04/04/2023 3 year(s) and 3 month(s) and 13 day(s)

No.	Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration
8.	56895/21 29/12/2021	**Marian MOCANU** 1971	Tulcea, Giurgiu, Găești, Jilava and Focșani Prisons 29/01/2020 to 12/07/2023 3 year(s) and 5 month(s) and 14 day(s)
9.	58211/21 17/11/2021	**Sorin-Ioan STOICA** 1980	Alba County Police Station; Aiud, Bistrița, Deva, Timișoara, Craiova, Pelendava and Târgu Jiu Prisons 02/06/2013 to 24/05/2023 9 year(s) and 11 month(s) and 23 day(s)